

**AGREEMENT BETWEEN THE
GOVERNMENT OF THE UNITED STATES OF AMERICA AND
THE GOVERNMENT OF THE RUSSIAN FEDERATION
TO AMEND THE**

"Agreement Between the Government of the United States of America and
the Government of the Russian Federation Regarding International Trade in
Commercial Space Launch Services"

The Government, of the United States of America and the Government of the Russian Federation hereby agree, with respect to the *Agreement Between the Government of the United States of America and the Government of the Russian Federation Regarding International Trade in Commercial Space Launch Services*, signed in Washington, D.C. on September 2, 1993, as follows:

1. the provisions of that agreement are hereby amended as provided in the attached Appendix; and
2. the requirement for a review of implementation of that agreement under Article IX, paragraph 2. is deemed to have been met.

DONE at Washington this 30th day of January, 1996, in duplicate in the English and Russian languages, both texts being equally authentic.

FOR THE GOVERNMENT OF
THE UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF
THE RUSSIAN FEDERATION:

/s/ Al Gore

/s/

APPENDIX

The Agreement Between the Government of the United States of America and the Government of the Russian Federation Regarding International Trade in Commercial Space Launch Services, signed in Washington, D.C. on September 2, 1993, is amended by:

1. Amending Article 1, paragraph 10, to read as follows:

ARTICLE I DEFINITIONS

10. "Low earth orbit" means any orbit below geosynchronous orbit or geosynchronous transfer orbit.

2. Amending Articles IV, V, VII, and VIII to read as follows, and:

ARTICLE IV QUANTITATIVE LIMITS

1. During the term of this Agreement, Russian space launch service providers may contract with international customers to provide commercial space launch services for the launch of up to fifteen (15) principal payloads (in addition to the INMARSAT 3 satellite) to geosynchronous earth orbit or geosynchronous transfer orbit. The Russian Federation shall make its best efforts to ensure a proportionate distribution of contracts by Russian space launch service providers within any two-year period. If the average annual number of internationally competed commercial launches, including launch failures, is 24 or more over the three-year period 1996 through 1999 or if the Parties, by mutual agreement, conclude that commitments for such launches indicate that an average annual number of internationally competed commercial launches of 24 or more will occur during that period, then this quantitative limit shall be raised to seventeen (17) (in addition to the INMARSAT 3 satellite). If the average annual number of internationally competed commercial launches, including launch failures, is 24 or more over the four-year period 1996 through 1999 or if the Parties, by mutual agreement, conclude that commitments for such launches indicate that an average annual number of internationally competed commercial launches of 24 or more will occur during that period, then this quantitative limit shall be raised to nineteen (19) (in addition to the INMARSAT 3 satellite)

2. Up to four launches of principal payloads to geosynchronous earth orbit or geosynchronous transfer orbit may consist of two principal payloads on a single launch vehicle. The Parties shall jointly evaluate each such launch on a case-by-case basis and, taking into account the current situation in the international commercial space launch market, may decide by mutual agreement to treat that launch as a single principal payload for the purpose of Article IV, paragraph 1.

3. During the term of this Agreement, Russian space launch service providers may contract to provide commercial space launch services for up to three (3) launches of satellites to low earth orbit for the Iridium system.

4. Both Parties agree that Russian participation in commercial space launch services to low earth orbit that are single launches and that are not part of the initial deployment of a satellite constellation shall not be disruptive to the normal functioning of the market. The United States shall be guided in its assessment of the effect, or potential effect, of Russia's participation in this low earth orbit market segment by, inter alia, the extent and growth of overall Russian and U.S. participation in this market. If either Party believes that the other Party is participating, or may participate, in this market in a manner inconsistent with its commitments under this Agreement, the Parties shall meet pursuant to the consultations provided for under Article VII, paragraph 2, of this Agreement to ascertain the facts of the situation and take appropriate corrective action.

5. With respect to proposals to deploy satellite constellations in low earth orbit during the term of this Agreement, the United States shall assess the effect or potential effect of Russia's participation in this low earth orbit market segment relative to Russia's commitments under this Agreement in terms of the extent of participation by Russian, U.S., and third country commercial space launch services providers in the deployment. In particular, the United States will consider whether the overall level of participation by commercial space launch services providers in countries with whom the United States has concluded a bilateral commercial space launch services agreement (measured according to distribution of payloads) in the deployment of any single LEO communications satellite constellation is greater than the participation of market economy commercial space launch services providers. The following factors will, inter alia, also be taken into account:

- a. launch scheduling requirements and the need to optimize launch vehicle selection to meet deployment or operational requirements;
- b. the availability of competitively priced market economy launches to meet these requirements;
- c. opportunities made available to other parties for participation in the replacement market;
- d. reasonable considerations by the proposed system operator regarding commercial risk sharing; and
- e. customers' requirements.

If either Party believes that the other Party is participating, or may participate, in the low earth orbit satellite constellation market in a manner inconsistent with its commitments under this Agreement, the Parties shall meet pursuant to the consultations provided for under Article VII paragraph 2, of this Agreement to ascertain the facts of the situation and take appropriate corrective action. The criteria set forth in this paragraph may be

reconsidered by the Parties. Among the events that would justify favorable reconsideration for elimination of the criteria in this paragraph would be a commercially viable project for satellite services that fundamentally changes demand for commercial space launch services.

6. In the course of consultations under Article VII, paragraph 1, the Parties shall consider jointly on a case-by-case basis and decide by mutual agreement on proposals by Russian space launch service providers for commercial suborbital launches where there are competing comparable commercial space launch services.

ARTICLE V PRICING

1. The contractual terms and conditions, including the price, of commercial space launch services offered or provided by Russian space launch service providers to international customers shall be comparable to the terms and conditions, including prices, for comparable commercial space launch services offered by commercial space launch services providers from market economy countries, including the United States.

2. When a bid, offer or contract by a Russian space launch service provider is less than 15 percent below a bid, offer or contract by a commercial space launch services provider from a market economy country, including the United States, to provide the commercial space launch services described in Article IV, paragraphs 1 and 2, it shall be assumed, unless information is provided to the contrary, that such bid, offer, or contract is consistent with paragraph 1 above and that no special consultations are needed. When a bid, offer or contract by a Russian space launch service provider is greater than 15 percent below a bid, offer or contract by a commercial space launch services provider from a market economy country, including the United States, the United States, after taking into consideration the comparability factors described in the Annex to this Agreement, may request special consultations under Article VII, paragraph 2.

ARTICLE VII CONSULTATIONS

1. The Parties shall hold regular consultations on an annual basis to review and implementation of the Agreement and market developments in commercial space launch services.

2. In addition, each Party undertakes to enter into special consultations within thirty (30) days of a request by the other Party to discuss matters of particular concern. In particular, special consultations will be held to review the situation in which there is an absence of Western launch availability due to full manifests or launch failures during the required launch period (generally within three (3) months before and after the preferred launch date), if Russia has reached a limitation set out in Article IV, paragraph 1. If

information is provided that verifies, to the satisfaction of the United States, that the situation described above exists, the United States may increase the quantitative limits on available launches established under Article IV, paragraph 1, to permit the satellite to be placed on a launch vehicle manifest for launch.

3. If, after consultations provided for under this Article, either Party determines that the provisions of this Agreement have been violated by the other Party, each Party reserves its right to take any action permitted under its national laws and regulations.

4. If, in the course of the annual reviews provided in paragraph 1 of this Article, the Parties agree that the market for commercial space launch services has developed more favorably than anticipated and if each Party is satisfied with the other Party's compliance with terms of this Agreement, the quotas set forth in Article IV of this Agreement may be increased, by written agreement of the Parties.

5. The Parties agree to work toward a common understanding of the application of market principles to prices, terms, and conditions of commercial space launch services for international customers.

ARTICLE VIII INFORMATION EXCHANGE

1. To facilitate the annual consultations under Article VII, the United States and Russia agree to exchange information as follows:

- a. The United States shall each year in advance of such consultations provide to Russia such publicly releasable information as it possesses with respect to prices, terms and conditions prevailing in the international market for commercial space launch services. Russia may request that the United States provide additional publicly releasable information with respect to international prices, terms and conditions, and may in addition request United States views regarding prevailing international market conditions and likely future developments, as well as government supports or inducements. The United States shall respond to such requests within thirty (30) days. If such information cannot be provided directly because of business confidentiality, the United States shall provide such information in summary form.
- b. Russia shall in advance of such consultations provide comprehensive information to the United States regarding prices, terms, and conditions offered by Russian space launch service providers for the launch of satellites. The United States may request additional information with respect to the prices, terms, and conditions offered by Russian space launch service providers and any government supports or inducements. Russia shall respond to such requests within thirty (30) days. If such information cannot be provided directly because of business confidentiality, Russia shall provide such information in summary form.

- c. The United States and Russia shall keep all information received from each other under subparagraphs (a) and (b) strictly confidential and shall not provide it to any other government or any private person without the written consent of the other.
- d. The United States and Russia shall also provide each year, in advance of annual consultations, information on a consolidated basis concerning the commitments their space launch service providers have undertaken to provide commercial space launch services for international customers. This information may be made publicly available.

2. If a launch of a satellite for an international customer which is subject to the terms of this Agreement will not be performed as scheduled, Russia shall notify the United States regarding any significant change in launch scheduling affecting the implementation of this Agreement and the now date for such launch as soon as possible.

3. Adding the following Annex:

Pricing Comparability Factors for GEO and GTO Commercial Space Launch Services

The Parties agree to the following factors as being relevant to the comparison or evaluation of commercial launch services offered in the international market for launches to geosynchronous earth orbit or geosynchronous transfer orbit. Such factors can often explain legitimate distinctions in the price offered for the launch of a particular payload by different launch providers, and are particularly useful in comparing bids from market economy providers to those from economy-in-transition providers of commercial space launch services.

<u>Comparability Factor</u>	<u>Description</u>
Intended Orbit	Based on delivery orbit for launch provider, and the provider of perigee kick motor (PKM)
Risk Management	Addresses potential differences in insurance for customer, based on vehicle and scheduling reliability (and the different forms of risk management, such as political risk insurance)
Additional Costs	
S Integration Costs	Addresses different types of payload/vehicle integration costs, and software/hardware modifications necessary for the mission

S Launch Support

Involves extra transportation expenses, security costs, extra equipment, and personnel support costs (relative to western launches) due to launching in the New Independent States of the former Soviet Union

Required Vehicle Lift Capability

Ensures comparison of vehicle classes providing similar performance that are matched to the payload mass and that are adequate to place the payload into the desired orbit

Payment Conditions/Terms

Relates to various payment and financial conditions or incentives that may be offered as part of a commercial space launch services bid (governed by the provisions of any relevant trade agreements and OECD guidelines)

Lifetime

Addresses impacts of different satellite lifetimes (on orbit) resulting from the commercial space launch services (this is not always a factor - the impact varies depending on case in question)